

ESTTA Tracking number: **ESTTA133604**

Filing date: **04/04/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|---|
| Name | Smartwool Corporation |
| Granted to Date of previous extension | 04/04/2007 |
| Address | 3495 Airport Circle Steamboat Springs, CO 80437 UNITED STATES |
| Attorney information | Andrea Anderson Holland & Hart LLP P.O. Box 8749 Denver, CO 80201 UNITED STATES docket@hollandhart.com,aanderson@hollandhart.com,tadressler@hollandhart.com Phone:303-473-2700 |

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 78866671 | Publication date | 12/05/2006 |
| Opposition Filing Date | 04/04/2007 | Opposition Period Ends | 04/04/2007 |
| Applicant | Slane Hosiery Mills PO Box 2486 313 S. Centennial Street High Point, NC 27260 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 025. All goods and services in the class are opposed, namely: Socks and stockings |
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|-------------|--|
| Attachments | Notice of Opposition.pdf (3 pages)(27279 bytes) |
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| | |
|-----------|-------------------|
| Signature | /Andrea Anderson/ |
| Name | Andrea Anderson |
| Date | 04/04/2007 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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| Smartwool Corporation, Opposer, v. Slane Hosiery Mills Corporation, Applicant. | Opposition No.: Mark: SMARTFOOT Serial No.: 78/866,671 |
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NOTICE OF OPPOSITION

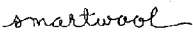
Smartwool Corporation, (“Opposer”) believes that it would be damaged by the registration of the mark SMARTFOOT shown in U.S. Trademark Application Serial No. 78/866,671 and by and through its attorneys, opposes this application.

As grounds for its opposition, Opposer alleges that:

1. Opposer is a Colorado Corporation, having a principal place of business at 3495 Airport Circle, Steamboat Springs, Colorado 80437.
2. Upon information and belief, Applicant Slane Hosiery Mills Corporation (“Applicant”) is a North Carolina corporation with a principal place of business at 313 S. Centennial Street, High Point, North Carolina 27260.
3. Upon information and belief, Applicant filed an intent-to-use application (Serial No. 78/866,671) to register the mark SMARTFOOT on April 21, 2006 for “socks and stockings.”

4. Since well prior to the filing date of Application No. 78/866,671, Opposer and its predecessor-in-interest have promoted and sold socks and other apparel items in the United States under the mark SMARTWOOL.

5. Opposer owns numerous U.S. trademark registrations for the mark SMARTWOOL for socks and apparel, including the following registrations:

| MARK | GOODS | REG. NO. | REG. DATE |
|--|---|----------|-----------|
| SMARTWOOL | Socks made in whole or significant part of wool for casual and active sports | 2188918 | 9/15/1998 |
| SMARTWOOL | Clothing, namely, undergarments, thermal underwear, leggings, headwear, ski hats, caps, gloves, turtleneck sweaters, sweaters, scarves, neck gaiters, athletic uniforms, bicycling pants, athletic pants, athletic shorts, jogging suits, sweat suits, pants and shirts made in whole or significant part of wool | 2314850 | 2/1/2000 |
| SMARTWOOL (Stylized)  | Wool socks for casual and active sports use | 1973016 | 5/7/1996 |

6. The foregoing registrations are valid, subsisting, and incontestable, and therefore constitute conclusive evidence of the validity of the mark and registrations, and of Opposer's ownership of and exclusive right to use the SMARTWOOL mark in connection with the goods set forth in the registrations. The registrations also provide constructive notice of Opposer's ownership of the SMARTWOOL mark.

7. In view of the confusingly similar nature of the parties' marks and the identical and/or related nature of the goods offered under their respective marks, Applicant's SMARTFOOT mark is likely to cause confusion, or to cause mistake, or to

deceive consumers as to the source or origin of Applicant's products offered under the SMARTFOOT mark. 15 U.S.C. § 1052(d).

WHEREFORE, Opposer respectfully requests that the SMARTFOOT mark shown in Application No. 78/866,671 be refused registration and that the opposition be sustained.

The filing fee in the amount of \$300 is being transmitted electronically with this submission. Should this payment method fail, however, please charge the filing fee to Deposit Account No. 08-2623.

Dated this 4th day of April, 2007.

Respectfully submitted



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